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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,164	05/30/2006	Stephen Graham Rutherford	MCLRK-012US	4110
7663 7590 10/06/2008 STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656				
EXAMINER				
LEUNG, PHILIP H				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
10/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,164

Applicant(s)

RUTHERFORD ET AL.

Examiner

Philip H. Leung

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-58 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 39-58 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7-10-2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/ICE)
Paper No(s)/Mail Date 7-3-2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. The drawings filed on 7-10-2008 are acceptable.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 53 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of a trademark in a claim is improper. The same must be replaced with a generic term instead. Clarification and correction are required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 39-51 and 54-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Young (US 5,585,027).

Young shows a platter 160 for use in an oven, the platter 160 comprising one or more apertures 167, etc. at substantially the edge of the platter, said one or more apertures passing through the thickness of the platter (see Figure 19, col. 8, lines 46-52). In regard to claim 40, the central region 10 is devoid of apertures. In regard to claim 42, the raised portions 165 are the claimed vertically extending members forming ridges as claimed in claim 43. In regard to claims 44 and 45, Young also shows the use of parallel ridges 62, 67 extending the width of the platter as shown in Figures 6 and 7. In regard to claim 47, the sidewall 164 is the claimed raised edge member. In regard to claims 49 and 50, the lip 166 can be used as “means for attaching a handle” as claimed in claim 49 or as “a handle” as claimed in claim 50. In regard to claim 51, see col. 4, lines 17-39 and col. 6, lines 10-14. In regard to claim 54, it can also be used in any microwave ovens including a forced air/microwave combination oven as the limitation is a mere intended use. In regard to claims 55 and 56, Young also shows “a platter having a first major surface and a second major surface, the surface area of the first major surface being greater than that of the second major surface so as to concentrate heat flux from the first major surface to the second major surface in use” as claimed as it shows the use of ridges 62 (Figure 5), 67 (Figure 7), 152 (Figure 17) and 165 (Figure 19) on the top surface and the bottom surface is substantially flat as claimed in claim 56.

6. Claims 39-41, 49-51, 54, 57 and 58 are further rejected under 35 U.S.C. 102(b) as being anticipated by Aronsson et al (US 6,476,368 B2).

Aronsson shows a platter for use in an oven, the platter 1 comprising one or more apertures 10 at substantially the edge of the platter, said one or more apertures passing through the thickness of the platter (see Figures 1-5 and col. 8, line 29 – col. 9, line 53). In regard to claim 40, the central region 12 can also be considered as “substantially devoid of apertures” although it shows slits 13 because majority area of the central region is free of apertures. It is noted that the term “substantially” is highly relative. In regard to claims 49 and 50, the edge of the food support 1 can be used as “means for attaching a handle” as claimed in claim 49 or as “a handle” as claimed in claim 50. In regard to claim 51, see col. 9, lines 11-13. In regard to claim 54, it can also be used in any microwave ovens including a forced air/microwave combination oven as the limitation is a mere intended use.

7. Claims 39-43, 46-51, 54, 57 and 58 are further rejected under 35 U.S.C. 102(b) as being anticipated by Pedersen (US 6,627,862 B1).

Pederson shows a platter 2 for use in an oven, the platter 2 comprising one or more apertures 8, 12, 14, etc. at substantially the edge of the platter, said one or more apertures passing through the thickness of the platter (see Figures 1-11 and col. 3, line 20 – col. 4, line 53). In regard to claim 40, the central region 10 is devoid of apertures. In regard to claim 42, the embossed radial lines 53 are the claimed vertically extending members forming ridges as claimed in claim 43 (see Figure 9). In regard to claim 47, the sidewall 6 is the claimed raised edge member. In regard to claims 49 and 50, the edge 36 of the food support 2 (see Figure 6)

can be used as “means for attaching a handle” as claimed in claim 49 or as “a handle” as claimed in claim 50. In regard to claim 51, see col. 3, lines 20-27. In regard to claim 54, it can also be used in any microwave ovens including a forced air/microwave combination oven as the limitation is a mere intended use.

8. Claims 55 and 56 are further rejected under 35 U.S.C. 102(b) as being anticipated by Stenkamp et al (US 5,310,977).

Stenkamp shows “a platter having a first major surface and a second major surface, the surface area of the first major surface being greater than that of the second major surface so as to concentrate heat flux from the first major surface to the second major surface in use” as claimed as it shows the use of ridges (projections 630) on the top surface and the bottom surface is substantially flat as claimed in claim 56 (see Figure 6 and col. 7, lines 61-68).

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being obvious over Young (US 5,585,027) or Aronsson et al (US 6,476,368 B2) or Pedersen (US 6,627,862 B1).

As set forth above, anyone of Young, Aronsson and Pedersen shows every feature except for the exact material of the polymer material of the food support. However, the use of any well known polymer material would be a matter of engineering expediency depending on the type of overall heating requirements obvious to an ordinary skill in the art.

11. Rimback (US 5,735,260) is further cited to show similar claimed features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H. Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Philip H Leung/
Primary Examiner, Art Unit 3742

P.Leung/pl
9-27-2008

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